



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/159170

PRELIMINARY RECITALS

Pursuant to a petition filed July 17, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on August 20, 2014, at Sheboygan, Wisconsin.

The issue for determination is whether the county agency correctly determined the sufficiency of the petitioner's FS on application.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Kris Schmidt

Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. Petitioner's household size is 1.
3. Effective July 1, 2014 Petitioner's monthly FS benefits were reduced from \$73.00 to \$15.00.

4. On June 5, 2014 the agency sent Petitioner notice of the reduction in her FS benefits.
5. On July 22, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.
6. Petitioner's monthly income is \$885.00 from social security. Her monthly rent is \$265.00 as she is in government assistance housing. Her only monthly utility expense is a phone. The remaining utilities are included in her rent.
7. Petitioner is in the elderly, blind, or disabled category and receives \$69.90 per month as an excess medical deduction.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 2 is \$152, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I have reviewed the agency's calculations in this case. I find that the agency correctly calculated Petitioner's monthly FS benefits effective July 1, 2014. The issue in this case lies in the reduction. Petitioner was receiving \$73 in monthly FS benefits, which was reduced to \$15. The reduction was not due to an increase income or decrease in other monthly expenses like rent and utilities. Petitioner feels that this reduction is not fair to her.

Petitioner's monthly FS benefits changed with the implementation of the 2014 Farm Bill. Previously everyone receiving food shares qualified for the \$450 Heating Standard Utility Allowance. It did matter whether or not the person was responsible for his or her utilities because the Wisconsin Department of Administration (DOA) issued an annual energy assistance payment of \$1 to all FS households who were not already receiving energy assistance. The 2014 Farm Bill changed Wisconsin's practice of allowing all FS households to take the maximum utility allowance. The 2014 Farm Bill requires a household to have a received a WHEAP or energy assistance payment of greater than \$20 to receive the HSUA of \$450. 7 U.S.C. 2014(e)(6)(C)(ii)(I) Therefore, "households that have not received WHEAP will receive the appropriate utility standard based on the utility obligation(s) incurred by the household." *DHS Operations Memo 14-16 Amended*. The utility deduction for households not receiving WHEAP assistance is based upon the household's utility obligations. *Id.* The allotment for a household responsible for a phone bill is \$30. *FS Wisconsin Handbook*, 8.1.3.

In this case Petitioner did not receive WHEAP and her only monthly utility obligation is a phone. Petitioner agrees that her remaining utilities are included in her rent as she lives in subsidized housing. The agency included the phone allotment in their FS formula, and therefore properly calculated Petitioner's monthly FS benefits with the implementation of the 2014 Farm Bill.

CONCLUSIONS OF LAW

The agency properly calculated Petitioner's monthly FS benefits effective July 1, 2014.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

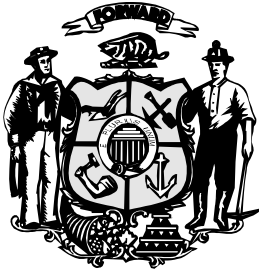
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of August, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 25, 2014.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability